IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 830 of 2004()

AGAINST THE ORDER DATED 10/11/2003 IN CMP. 2207 /2003 AND CMP.2196/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA

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PETITIONER: P.A.HOLDER OF COMPLAINANT IN CMP.2207/03:

BIJU, S/O. SREDHARAN,
B.S.SADANAM, CHEMMARUTHI (POWER OF ATTORNEY HOLDER OF SHAJI,S/O. SREEDHARAN,B.S.SADANAM, CHEMMARUTHI, PRESENTLY EMPLOYED IN FOREIGN COUNTRY).

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)

RESPONDENTS: CR.PETITIONER AND COMPLAINANT IN CMP.9196/03:

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1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA.

2. SURENDRAN, SON OF NANU,
   SHEENA BHAVAN, KIDAVATHUVILA, PLACHIRA P.O.,
   VARKALA.

R1 BY PUBLIC PROSECUTOR SRI GIKKU JACOB.
R2 BY ADV. SRI.G.S.REGHUNATH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C. NO.830 of 2004

Dated 30th day of November, 2006

ORDER

The petitioner has challenged the correctness of the order of the court below under section 451 Cr.P.C. awarding interim custody of the articles allegedly stolen from his house by his father-in-law. The petitioner as well as the 2nd respondent - father- in- law had applied before court under section 451 Cr.P.C. with respect to the articles seized by the police, i.e. sony TV-21, godrej fridge, washing machine and gas cylinder . It is the case of the petitioner that the above articles were stolen by his mother-in-law, brother-in-law and co-brother from his residence on 16-9-2003 on the date of cremation of his father who died on 15-9-2003. The court below has ordered interim custody of the T.V., fridge and washing machine to the 2nd respondent and gas cylinder to the petitioner herein on the basis of the documents produced showing the ownership of the respective articles. It is the contention of the petitioner that in view of the fact that the above articles were recovered by police and one of the items i.e., gas cylinder was found to be fully

owned by the petitioner, entrusting the custody of the rest of the articles with the 2nd respondent was improper. It is submitted that there was estranged relationship with the petitioner and his wife. In the circumstances and in view of the fact that the court has ordered interim custody on the basis of the documents produced and that the custody given is only for the period pendente lite, no interference is called for. The Crl.M.C. is dismissed.

All the same, the court below is directed to dispose of the main case pending in the matter at the earliest at any rate within 4 months from the date of receipt of this order if the final report has been filed.

The Crl.M.C. is disposed of as above

K.R.UDAYABHANU,JUDGE.

kvm/-